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TO: Examiner Steven Bos
FIRM: U.S. Patent and Trademark Office
Group Art Unit 1734
FACSIMILE NO.: (703) 305-6078
OUR REF.: ABINITI.001CF1
YOUR REF.: Serial No. 10/047,460
FROM: Sam K. Tahmassebi
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NOT TO BE ENTERED INTO RECORD -
SOLELY FOR PURPOSES OF DISCUSSION WITH EXAMINER

August 13, 2003

VIA FACSIMILE
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Examiner Steven J. Bos
U.S. Patent and Trademark Office
Group Art Unit 1734

Re: Discussion Points for Personal Interview
Serial No. 10/047,460
Filed: January 14, 2002
Our Reference: ABINITI.001CP1

Dear Examiner Bos:

Thank you very much for agreeing to discuss the pending Office Action in the above-captioned patent application during a personal interview at 2:00 PM on Thursday August 28, 2003. I will be accompanied by the assignee's representative, Luke Daly, and my colleague, Joseph M. Reisman (Reg. No. 43,878). In this letter, I have summarized a number of the points we would like to discuss with you during the interview.

The presently pending claims stand rejected under 35 U.S.C. § 102(b) over Deininger '573 and under 35 U.S.C. § 103(a) over the combinations of (i) Johnson '994 in view of Deininger '573, (ii) Mills '090 in view of Deininger '573, and (iii) Harrison '553 in view of Deininger '573. For the reasons set forth below, we respectfully wish to traverse these rejections.

35 U.S.C. § 103(a)

In the Office Actions, you state that Johnson, Mills, and Harrison each do not teach at least one limitation of the present claims. The most recent Office Action states that these references "do[] not specifically teach delivering at least a portion of the ferrate to a site of use that is proximal to the mixing or reaction chamber." See Office Action of July 10, 2003 (Paper No. 10), page 2, lines 18-19; page 3, lines 6-8, and lines 16-18. Accordingly, you have asserted

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that the teachings of these primary references may be combined with that of Deininger '573, which allegedly provides the missing element. The Office Action also states

Deininger takes the ferrate from the reactor and delivers it to a centrifuge which uses it to separate water therefrom as shown in the Figure. *The centrifuge is a site that is proximal to the reactor.*

(emphasis added).

In our view, the centrifugation of a ferrate solution is not within the scope of the term "use," and therefore, the centrifuge may not properly be considered a "site of use." Moreover, the Specification defines the term "site of use" in a manner that excludes a centrifuge. Specifically, in Paragraph [0047], Applicant states: "The terms 'site of use,' 'use site,' or 'treatment site' refer to the site where the ferrate is contacted with the object it is to oxidize, synthesize, disinfect, clean, plate, encapsulate, or coagulate." Plainly speaking, the centrifuge is not oxidized, synthesized, disinfected, cleaned, plated, encapsulated, or coagulated by ferrate when a ferrate solution is centrifuged; the centrifuge of Deininger '573 is not a site of use, as that term would be ordinarily understood or as it is defined in the Specification. Furthermore, we note that Deininger '573 discusses several uses for ferrate, for example in Columns 1 and 2, but nowhere does Deininger '573 mention or otherwise suggest that the site of use is to be proximal to the site of generation.

In addition to missing the "proximal" and "site of use" limitations, Deininger '573 imposes various requirements that are unnecessary in the presently pending claims, by virtue of the "proximal" and "site of use" limitations. For instance, Deininger requires the presence of stabilizers, as set forth in the section entitled "FERRATE STABILIZERS," which begins on Column 7. Further, Deininger '573 states

Besides the use of substantially pure reactants, the process of the present invention *requires* the presence of a stabilizing proportion of ferrate-stabilizing compounds during the ferrate formation reaction.

column 7, lines 17-20 (emphasis added). The presently claimed invention does not require the addition of stabilizers. In fact, because the claimed methods recite using ferrate at a proximal site of use, and without further purification, the claimed methods *purposefully* avoid known cumbersome and inefficient processes of producing ferrate, including that of Deininger '573.

Deininger's use of ferrate is predicated upon precipitating the ferrate. See, for example, column 12, in the section entitled "K₂FeO₄ PRECIPITATION STEP." The "K₂FeO₄ RECOVERY STEPS" section specifically discusses how the precipitated ferrate crystals can be recovered from the solution.

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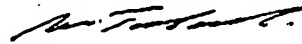
Therefore, we maintain that Deininger '573 teaches away from the subject matter of the pending claims; it requires ferrate to be precipitated and stabilized, using stabilizing compounds. One of ordinary skill in the art, armed with the disclosure of Deininger '573, would not be motivated to use the reaction product without further purification at a site of use that is proximal to the generation site.

35 U.S.C. § 102(b)

The pending claims are also rejected under 35 U.S.C. § 102(b) for allegedly being anticipated by Deininger '573. As I mentioned above, Deininger '573 does not disclose certain of the claim limitations, most notably the use at a site proximal to the generation site. Accordingly, we maintain that Deininger '573 does not anticipate the claims.

I look forward to meeting with you on August 21st and discussing the above points, or whatever other matters you wish to discuss. In the meantime, please do not hesitate to contact me if you have any questions or concerns about the application or the issues raised in this letter.

Very truly yours,



Sam K. Tahmassebi
Reg. No. 45,151

cc: Joseph M. Reisman
Luke Daly

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